
SENATE BILL 5761

State of Washington

60th Legislature

2007 Regular Session

By Senators Rasmussen, Morton and Schoesler

Read first time 01/31/2007. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to the taxation of vegetation management services
2 using goats or sheep; reenacting and amending RCW 82.04.050; and adding
3 a new section to chapter 82.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
6 to read as follows:

7 Upon every person engaging within this state in the business of
8 performing a vegetation management service through the use of goats or
9 sheep, as to such persons, the amount of the tax with respect to such
10 business must be equal to the gross income of the business multiplied
11 by the rate of 0.2904 percent.

12 For the purposes of this section, "vegetation management service"
13 means when an owner of goats or sheep provides these animals for
14 compensation for the purpose of clearing or controlling the vegetation
15 on another person's land.

16 **Sec. 2.** RCW 82.04.050 and 2005 c 515 s 2 and 2005 c 514 s 101 are
17 each reenacted and amended to read as follows:

18 (1) "Sale at retail" or "retail sale" means every sale of tangible

1 personal property (including articles produced, fabricated, or
2 imprinted) to all persons irrespective of the nature of their business
3 and including, among others, without limiting the scope hereof, persons
4 who install, repair, clean, alter, improve, construct, or decorate real
5 or personal property of or for consumers other than a sale to a person
6 who presents a resale certificate under RCW 82.04.470 and who:

7 (a) Purchases for the purpose of resale as tangible personal
8 property in the regular course of business without intervening use by
9 such person, but a purchase for the purpose of resale by a regional
10 transit authority under RCW 81.112.300 is not a sale for resale; or

11 (b) Installs, repairs, cleans, alters, imprints, improves,
12 constructs, or decorates real or personal property of or for consumers,
13 if such tangible personal property becomes an ingredient or component
14 of such real or personal property without intervening use by such
15 person; or

16 (c) Purchases for the purpose of consuming the property purchased
17 in producing for sale a new article of tangible personal property or
18 substance, of which such property becomes an ingredient or component or
19 is a chemical used in processing, when the primary purpose of such
20 chemical is to create a chemical reaction directly through contact with
21 an ingredient of a new article being produced for sale; or

22 (d) Purchases for the purpose of consuming the property purchased
23 in producing ferrosilicon which is subsequently used in producing
24 magnesium for sale, if the primary purpose of such property is to
25 create a chemical reaction directly through contact with an ingredient
26 of ferrosilicon; (~~(ferr)~~) or

27 (e) Purchases for the purpose of providing the property to
28 consumers as part of competitive telephone service, as defined in RCW
29 82.04.065. The term shall include every sale of tangible personal
30 property which is used or consumed or to be used or consumed in the
31 performance of any activity classified as a "sale at retail" or "retail
32 sale" even though such property is resold or utilized as provided in
33 (a), (b), (c), (d), or (e) of this subsection following such use. The
34 term also means every sale of tangible personal property to persons
35 engaged in any business which is taxable under RCW 82.04.280 (2) and
36 (7), 82.04.290, and 82.04.2908; or

37 (f) Purchases for the purpose of satisfying the person's
38 obligations under an extended warranty as defined in subsection (7) of

1 this section, if such tangible personal property replaces or becomes an
2 ingredient or component of property covered by the extended warranty
3 without intervening use by such person.

4 (2) The term "sale at retail" or "retail sale" shall include the
5 sale of or charge made for tangible personal property consumed and/or
6 for labor and services rendered in respect to the following:

7 (a) The installing, repairing, cleaning, altering, imprinting, or
8 improving of tangible personal property of or for consumers, including
9 charges made for the mere use of facilities in respect thereto, but
10 excluding charges made for the use of self-service laundry facilities,
11 and also excluding sales of laundry service to nonprofit health care
12 facilities, and excluding services rendered in respect to live animals,
13 birds and insects;

14 (b) The constructing, repairing, decorating, or improving of new or
15 existing buildings or other structures under, upon, or above real
16 property of or for consumers, including the installing or attaching of
17 any article of tangible personal property therein or thereto, whether
18 or not such personal property becomes a part of the realty by virtue of
19 installation, and shall also include the sale of services or charges
20 made for the clearing of land and the moving of earth excepting the
21 mere leveling of land used in commercial farming or agriculture;

22 (c) The charge for labor and services rendered in respect to
23 constructing, repairing, or improving any structure upon, above, or
24 under any real property owned by an owner who conveys the property by
25 title, possession, or any other means to the person performing such
26 construction, repair, or improvement for the purpose of performing such
27 construction, repair, or improvement and the property is then
28 reconveyed by title, possession, or any other means to the original
29 owner;

30 (d) The sale of or charge made for labor and services rendered in
31 respect to the cleaning, fumigating, razing or moving of existing
32 buildings or structures, but shall not include the charge made for
33 janitorial services; and for purposes of this section the term
34 "janitorial services" shall mean those cleaning and caretaking services
35 ordinarily performed by commercial janitor service businesses
36 including, but not limited to, wall and window washing, floor cleaning
37 and waxing, and the cleaning in place of rugs, drapes and upholstery.

1 The term "janitorial services" does not include painting, papering,
2 repairing, furnace or septic tank cleaning, snow removal or
3 sandblasting;

4 (e) The sale of or charge made for labor and services rendered in
5 respect to automobile towing and similar automotive transportation
6 services, but not in respect to those required to report and pay taxes
7 under chapter 82.16 RCW;

8 (f) The sale of and charge made for the furnishing of lodging and
9 all other services by a hotel, rooming house, tourist court, motel,
10 trailer camp, and the granting of any similar license to use real
11 property, as distinguished from the renting or leasing of real
12 property, and it shall be presumed that the occupancy of real property
13 for a continuous period of one month or more constitutes a rental or
14 lease of real property and not a mere license to use or enjoy the same.
15 For the purposes of this subsection, it shall be presumed that the sale
16 of and charge made for the furnishing of lodging for a continuous
17 period of one month or more to a person is a rental or lease of real
18 property and not a mere license to enjoy the same;

19 (g) The sale of or charge made for tangible personal property,
20 labor and services to persons taxable under (a), (b), (c), (d), (e),
21 and (f) of this subsection when such sales or charges are for property,
22 labor and services which are used or consumed in whole or in part by
23 such persons in the performance of any activity defined as a "sale at
24 retail" or "retail sale" even though such property, labor and services
25 may be resold after such use or consumption. Nothing contained in this
26 subsection shall be construed to modify subsection (1) of this section
27 and nothing contained in subsection (1) of this section shall be
28 construed to modify this subsection.

29 (3) The term "sale at retail" or "retail sale" shall include the
30 sale of or charge made for personal, business, or professional services
31 including amounts designated as interest, rents, fees, admission, and
32 other service emoluments however designated, received by persons
33 engaging in the following business activities:

34 (a) Amusement and recreation services including but not limited to
35 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
36 for sightseeing purposes, and others, when provided to consumers;

37 (b) Abstract, title insurance, and escrow services;

38 (c) Credit bureau services;

1 (d) Automobile parking and storage garage services;

2 (e) Landscape maintenance and horticultural services but excluding
3 (i) horticultural services provided to farmers (~~and~~), (ii) pruning,
4 trimming, repairing, removing, and clearing of trees and brush near
5 electric transmission or distribution lines or equipment, if performed
6 by or at the direction of an electric utility, and (iii) vegetation
7 management services through the use of goats or sheep;

8 (f) Service charges associated with tickets to professional
9 sporting events; and

10 (g) The following personal services: Physical fitness services,
11 tanning salon services, tattoo parlor services, steam bath services,
12 turkish bath services, escort services, and dating services.

13 (4)(a) The term shall also include:

14 (i) The renting or leasing of tangible personal property to
15 consumers; and

16 (ii) Providing tangible personal property along with an operator
17 for a fixed or indeterminate period of time. A consideration of this
18 is that the operator is necessary for the tangible personal property to
19 perform as designed. For the purpose of this subsection (4)(a)(ii), an
20 operator must do more than maintain, inspect, or set up the tangible
21 personal property.

22 (b) The term shall not include the renting or leasing of tangible
23 personal property where the lease or rental is for the purpose of
24 sublease or subrent.

25 (5) The term shall also include the providing of telephone service,
26 as defined in RCW 82.04.065, to consumers.

27 (6) The term shall also include the sale of prewritten computer
28 software other than a sale to a person who presents a resale
29 certificate under RCW 82.04.470, regardless of the method of delivery
30 to the end user, but shall not include custom software or the
31 customization of prewritten computer software.

32 (7) The term shall also include the sale of or charge made for an
33 extended warranty to a consumer. For purposes of this subsection,
34 "extended warranty" means an agreement for a specified duration to
35 perform the replacement or repair of tangible personal property at no
36 additional charge or a reduced charge for tangible personal property,
37 labor, or both, or to provide indemnification for the replacement or
38 repair of tangible personal property, based on the occurrence of

1 specified events. The term "extended warranty" does not include an
2 agreement, otherwise meeting the definition of extended warranty in
3 this subsection, if no separate charge is made for the agreement and
4 the value of the agreement is included in the sales price of the
5 tangible personal property covered by the agreement. For purposes of
6 this subsection, "sales price" has the same meaning as in RCW
7 82.08.010.

8 (8) The term shall not include the sale of or charge made for labor
9 and services rendered in respect to the building, repairing, or
10 improving of any street, place, road, highway, easement, right of way,
11 mass public transportation terminal or parking facility, bridge,
12 tunnel, or trestle which is owned by a municipal corporation or
13 political subdivision of the state or by the United States and which is
14 used or to be used primarily for foot or vehicular traffic including
15 mass transportation vehicles of any kind.

16 (9) The term shall also not include sales of chemical sprays or
17 washes to persons for the purpose of postharvest treatment of fruit for
18 the prevention of scald, fungus, mold, or decay, nor shall it include
19 sales of feed, seed, seedlings, fertilizer, agents for enhanced
20 pollination including insects such as bees, and spray materials to:
21 (a) Persons who participate in the federal conservation reserve
22 program, the environmental quality incentives program, the wetlands
23 reserve program, and the wildlife habitat incentives program, or their
24 successors administered by the United States department of agriculture;
25 (b) farmers for the purpose of producing for sale any agricultural
26 product; and (c) farmers acting under cooperative habitat development
27 or access contracts with an organization exempt from federal income tax
28 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of
29 fish and wildlife to produce or improve wildlife habitat on land that
30 the farmer owns or leases.

31 (10) The term shall not include the sale of or charge made for
32 labor and services rendered in respect to the constructing, repairing,
33 decorating, or improving of new or existing buildings or other
34 structures under, upon, or above real property of or for the United
35 States, any instrumentality thereof, or a county or city housing
36 authority created pursuant to chapter 35.82 RCW, including the
37 installing, or attaching of any article of tangible personal property
38 therein or thereto, whether or not such personal property becomes a

1 part of the realty by virtue of installation. Nor shall the term
2 include the sale of services or charges made for the clearing of land
3 and the moving of earth of or for the United States, any
4 instrumentality thereof, or a county or city housing authority. Nor
5 shall the term include the sale of services or charges made for
6 cleaning up for the United States, or its instrumentalities,
7 radioactive waste and other byproducts of weapons production and
8 nuclear research and development.

9 (11) The term shall not include the sale of or charge made for
10 labor, services, or tangible personal property pursuant to agreements
11 providing maintenance services for bus, rail, or rail fixed guideway
12 equipment when a regional transit authority is the recipient of the
13 labor, services, or tangible personal property, and a transit agency,
14 as defined in RCW 81.104.015, performs the labor or services.

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